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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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AUG 31 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 94-66
Table of Allotments)	RM-8469
FM Broadcast Stations)	
(Tyler, Texas))	

To: Chief Allocations Branch
Policy And Rules Division
Mass Media Bureau

**JOINT COMMENTS OF
FREESTONE BROADCASTING COMPANY, INC. & RUSSELL FIELDS, INC.**

Freestone Broadcasting Company, Inc. ("FBCI"), licensee of Station KNES(FM) at Fairfield, Texas, and Russell- Fields, Inc. ("RFI"), licensee of Station KEMM(FM) at Commerce, Texas, by their counsel, hereby respectfully submits its Joint Comments in the above captioned rule making proceeding seeking to amend Section 73.202(b) of the Commission's Rules to (i) substitute Channel 221C3 for Channel 221A at Tyler, Texas and modify the license of Station KODK(FM) accordingly; (ii) substitute Channel 256A for Channel 221A at Fairfield, Texas and modify the license of Station KNES(FM) accordingly and; (iii) substitute Channel 277A for Channel 221A at Commerce, Texas and modify the license of Station KEMM accordingly.

In support of these Joint Comments, the following information is respectfully submitted:

1. FBCI and RFI have no objection to the proposed

substitution of channel allotments at Fairfield and Commerce if the two existing licensees are compensated for all of their expenses incurred in the channel change. FBCI and RFI will only agree if they are compensated to the extent that their respective stations could operate on the new frequencies without financial distress caused by the channel change. In short, both FBCI and RFI will only agree to the channel change if Gleiser Communications, Inc. ("GCI"), the proponent of this channel change, leaves them in the same financial position they now hold operating their facilities on Channel 221A.

2. FBCI and RFI are both licensed to relatively small and remote communities. KNES(FM), licensed to Fairfield (1990 population 3,234), is the only local broadcast service in Freestone County, Texas (1990 population 15,818). KEMM(FM), is the only commercial local broadcast service in Commerce (1990 population 6,825). Although located in small communities, both of these stations battle for listeners with many of the Class C FM stations in the Dallas-Fort Worth radio market and can only survive in this highly competitive atmosphere by providing local news, weather and information to their immediate service area.

3. Both FBCI and RFI are small entities whose principals, along with their wives, operate the two stations on a day to day basis. Both Jerry Moon of FBCI and Jack Russell of RFI have invested their life savings into their respective facilities and rely on the income they produce as their only source of household income. The present business climate in both Fairfield

and Commerce, combined with the competitive atmosphere of radio in the general area, makes operating KNES(FM) and KEMM(FM) a struggle at best. Attached as Exhibits 1 and 2 respectively are the sworn affidavits of FBCI President Jerry Moon and RFI President Jack Russell outlining the problems they will face if not adequately compensated to change the frequencies of their facilities.

4. KNES(FM) has been operating continuously on Channel 221A (92.1 MHz.) since 1983. All of the stations listeners and advertisers are well accustomed to finding the station at that one spot on the FM band. KNES's advertising and promotional materials are centered around the dial position of 92.1 megahertz. The slogan "TEXAS 92" is used in printed materials and on-air to identify the station. FBCI has invested a great deal of time, money and effort to create and promote this identity with its listeners. Attached hereto as Exhibit 3 is a copy of a KNES(FM) bumper sticker. The Commission is asked to note the prominence of the slogan "TEXAS 92" and the frequency.

5. KEMM(FM) has been operating continuously on Channel 221A (92.1 MHz.) since 1981. Like KNES(FM), all of KEMM(FM)'s listeners are well accustomed to finding the station at that one spot on the FM band. KEMM(FM)'s advertising and promotional materials are centered around the dial position of 92.1 megahertz. The slogan "KEMM 92" is used in printed and on the air promotion of the station. RFI has invested a great deal of time, money and effort to create and promote this identity

with its listeners. Attached hereto as Exhibit 4 are copies of a KEMM(FM) bumper sticker and banner as well as a photograph of the station's remote facilities. The Commission is asked to note the prominence of the "KEMM 92" slogan and the frequency.

6. Both FBCI and RFI submit that any change in operating frequency at either facility will create major confusion for the two station's advertisers and listeners, which in turn would most certainly negatively impact on their ability to generate revenue. As both station's are marginal operations, any downturn in revenue as a result the proposed channel change would severely impact of their ability to continue as a viable business entity.

7. Both FBCI and RFI are responsible broadcasters who fully understand the commitment to serve the public that goes with being a Commission licensee. Any reduction in station revenue, as a result of being forced to change operating frequencies, would negatively impact of FBCI and RFI's ability to provide much needed local service to their communities. In fact, if FBCI were forced to discontinue operation as a result of lost revenue from a channel change, Freestone County would then lose its only local outlet for immediate and county wide dissemination of official emergency information. It must be noted that Fairfield, Texas is in an area that receives severe weather often during the year.

8. FBCI and RFI assert that it is also not in the public interest for the Commission to allow a licensee to request an upgrade in operating facilities that may severely impact other

were asked to change to a far removed frequency that allowed the another station to reap the benefits of increased operating power and market position.

10. Attached hereto as Exhibit 5 is a list of expenses that RFI would incur to reposition itself in the marketplace and change frequencies to Channel 277A. This list was generated from quotes obtained by RFI President Jack Russell. Attached hereto as Exhibit 6 is a list of expenses that FBCI would incur to reposition itself in the marketplace and change frequencies to Channel 256A. This list was generated from quotes obtained by FBCI President Jerry Moon.

THEREFORE, based upon the foregoing, if GCI does not agree to compensate FBCI AND RFI as requested herein for the changes it seeks to thrust upon their facilities, then the Joint Commenters strongly object to any change in their respective operating frequencies. Any change in operating frequencies without the compensation discussed herein would severely endanger both the ability of KNES(FM) and KEMM(FM) to remain viable business entities and provide local broadcast service in the public interest to the communities where they are licensed.

Respectfully submitted,

FREESTONE BROADCASTING COMPANY, INC.
RUSSELL-FIELDS, INC.

By: 

William J. Pennington, III
Their Attorney

5519 Rockingham Road-East
Greensboro, NC 27407
(919) 299-5257

Date: August 29, 1994

EXHIBIT 1

SWORN AFFIDAVIT OF JERRY MOON

STATE OF TEXAS)

COUNTY OF FREESTONE)

AFFIDAVIT

JERRY MOON, being duly sworn upon oath, deposes and says:

That, I am President and a principal owner of Freestone Broadcasting, Inc., licensee of Station KNES-FM at Fairfield, Texas. That I, along with my wife, Judy Moon, operate Station KNES on a daily basis, and, between the two of us, handle the majority of the duties associated with the radio station.

That my wife and I have invested all of our personal savings into the purchase of and operation of Station KNES-FM, and rely on it as our only source of family income. Since purchasing the radio station, it has been a constant struggle to provide service to our community and pay the bills associated with the operation.

That KNES-FM has been operating continuously on 92.1 megahertz since beginning operation in 1983, and that the station's advertisers and listening audience are well accustomed to the station being located at that frequency. A large part of KNES'S advertising and promotional materials and activities are centered around the dial position of 92.1 megahertz; even the advertising and promotional activities use "TEXAS 92" as identification.

That having to change operating frequencies would create major confusion for the station's listeners and advertisers, which would in turn reduce the station's income. Any significant drop in monthly advertising revenue will endanger the ability of the station to continue operation. With KNES being the only broadcast station in Freestone County, it provides a much needed local service to the community. Therefore, any financial problems the station may encounter would be directly attributed to the proposed change in frequency, and would negatively impact the station's ability to provide service to the community. The diminution of service attributed directly to a change in frequency would be contrary to the public interest.

FURTHER AFFIANT SAYETH NOT.


JERRY MOON

SUBSCRIBED AND SWORN TO before me this 26th

day of August, 1994



NOTARY PUBLIC FOR TEXAS
My commission expires:

EXHIBIT 2

SWORN AFFIDAVIT OF JACK RUSSELL

STATE OF TEXAS)

COUNTY OF HUNT)

A F F I D A V I T

JACK RUSSELL, being duly sworn upon oath, desposes and says:


That I am President of Russell-Fields, Inc., licensee of station KEMM-FM at Commerce, Texas. That I, along with my wife, Sue Russell, operate Station KEMM on a daily basis, and, between the two of us, handle the majority of the duties associated with the radio station.

That my wife and I have invested all of our personal savings into the purchase of and operation of Station KEMM-FM, and rely on it as our only source of family income. The present business climate in Commerce and Hunt Counties, Texas makes operating a radio station a marginal proposition.

That KEMM-FM has been operating continuously on 92.1 megahertz since beginning operation in 1981, and that the station's advertisers and listening audience are well accustomed to the station being located at that frequency. A large part of KEMM's advertising and promotional materials and activities are centered around the dial position of 92.1 megahertz; even the advertising and promotional activities use "KEMM-92" as identification.

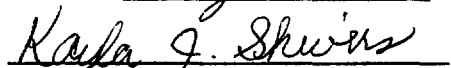
That having to change operating frequencies would create major confusion for the station's advertisers and listeners, which would in turn reduce the station's income. Any significant drop in monthly advertising revenue will endanger the ability of the station to continue operation. With KEMM being the only commercial station licensed to Commerce, it provides a much needed local service to the community. Therefore, any financial problems the station may encounter would be directly attributed to the proposed change in frequency, and would negatively impact the station's ability to provide service to the community. The diminution of service attributed directly to a change in frequency would be contrary to the public interest.

FURTHER AFFIANT SAYETH NOT.


JACK RUSSELL

SUBSCRIBED AND SWORN TO before me this 24

day of August, 1994.


NOTARY PUBLIC FOR TEXAS
My Commission Expires:

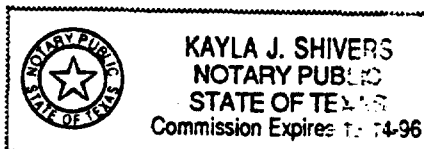


EXHIBIT 3

KNES(FM) PROMOTIONAL MATERIAL

1760

92.1 FM

KNES

EXHIBIT 4

KEMM(FM) PROMOTIONAL MATERIAL

GREENVILLE - COMMERCE

KNES (FM) - MATERIAL

KEEPM + 92



Kennedy

Best Country

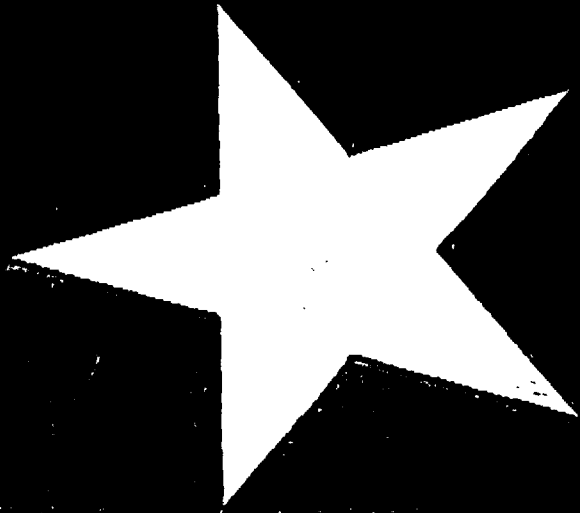


EXHIBIT 5

KEMM(FM) REIMBURSABLE EXPENSES

KEMM Reimbursable Expenses

Office

1. Letterhead (5,000)	\$ 200.00	
2. Envelopes (2,000)	92.00	
3. Catalog envelopes (200)	85.00	
4. Business Cards (3 sets of 1,000)	89.00	
5. Note cards (500)	100.00	
6. Envelopes (500)	55.00	
7. Presentation folders (500)	990.00	
8. Rubber stamps (Paid, Complimentary, Deposit)	<u>54.00</u>	<u>\$1,665.00</u>

Promotional Material

1. Bumper stickers	750.00	
2. Newspaper advertisements (one time run)		
Commerce Journal, $\frac{1}{4}$ page	171.00	
Greenville Herald Banner, $\frac{1}{4}$ page	334.00	
3. Custom Banners (6)	660.00	
4. Metal sign at studios	190.00	
5. Repaint Remote Broadcast Unit	400.00	
6. Mailing to customer based list/postage	60.00	
7. Billboards (4 @ \$500, 3-4 months)	<u>8,000.00</u>	<u>10,565.00</u>

Banking

1. New checks	53.75	
2. New deposit book	<u>10.50</u>	<u>64.25</u>

Coverage Maps

1. 500 maps, 8x11, 2 colors	<u>150.00</u>	<u>150.00</u>
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Programming

1. Jingle package	2,500.00	
(independently produced by MPT Productions, Dallas, Texas)		
2. Positioning statements	<u>500.00</u>	<u>3,000.00</u>
('WX intros, news intros, outside voice talent)		

Engineering

1. Engineering fees associated with application seeking frequency change	\$1,500.00	
2. New 4 bay FM antenna tuned to 103.3 MHz	8,000.00	
3. Contract engineering work to effectuate change of channels	1,000.00	
4. Tower crew to install new FM antenna and remove existing antenna	<u>3,500.00</u>	<u>\$14,000.00</u>

Legal

1. Legal fees associated with application seeking frequency change and 6.0 kw ERP	2,500.00	
2. FCC application fee	<u>650.00</u>	<u>3,150.00</u>

TOTAL KEMM REIMBURSABLE EXPENSES:

\$32,530.00

EXHIBIT 6

KNES(FM) REIMBURSABLE EXPENSES

KNES Expenses to Change Frequencies

Office

1. Stationery		
Original (2500)		
Overprint: Coverage maps (250)		
Rate cards (250)		
Program schedules (250)	\$	415.00
2. Envelopes		
Plain (1,000)		
Window (1,000)		188.75
3. Business Cards		
Original (3,000)		
Overprint (11 persons @ 250 ea.)		324.12
4. Rubber stamps (3 @ \$7.50 ea.)		22.50
5. Checks (Regular, Payroll, Deposit books)		159.70
		<u>\$1,110.07</u>

Production/Programming

1. Bumps/liners studio time/talent		475.00
2. Jingle package		2,250.00
3. Staff T-shirts (11 persons @ 2 ea.)		300.00
4. Bumper stickers (1,000)		750.00
5. Remote trailer, repaint & re-letter		2,625.00
6. Station remote banner, re-design & repaint		117.50
		<u>6,517.50</u>

Advertising & Promotion

1. Artwork		
Station logo (3.5 Agency hours @ \$87.50)		
Newspaper (6.0 Agency hours @ \$87.50)		
Billboards (8.0 Agency hours @ \$87.50)		
Letterhead, envelopes, maps, program schedules, etc.		
Direct mail (2) (3.0 Agency hours @ \$87.50)		
		1,793.75
2. Sign repaint:		
Door		250.00
Highway signs (3)		802.50
Rodeo arena gate		267.50
3. Specialty items:		
Pens, Rulers, Maps, Bumper stickers		1,326.50
4. Time/Space/Outdoor/Mail		
Newspaper Ads		1,500.00
Billboard space (10, 30 days)		4,000.00
Direct Mail (2)		

Freestone, Limestone, Leon, Navarro, & Anderson counties: 140,000 @ 16¢ (x2)	44,800.00	
Cable TV		
Time & Production: Fairfield, Mexia, Teague, Corsicana, Palestine, Buffalo & Jewett	4,782.00	59,522.25

Technical

1. New 4 Bay antenna, installation	18,573.00	
2. Exciter (retuning, testing)	600.00	
3. Contract Engineering	575.00	
4. Engineering for application seeking frequency change	1,500.00	
5. Legal fees for application	2,500.00	
6. FCC Fees	650.00	23,748.00

TOTAL KNES REIMBURSABLE EXPENSES:		<u>\$89,505.07</u>
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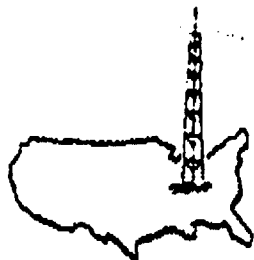
G-82394-2

CITATION NO.

EQUIPMENT LIST NO.: **KNES**

Pg. 1 of 1

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Nationwide Tower Company

P.O. BOX 130 • POOLE, KENTUCKY • 42444
TEL. (502) 533-6600 • FAX (502) 533-0044

RADIO, TELEVISION, C.A.T.V. AND MICROWAVE TOWERS
INSPECT • PAINT • REPAIR • RE-GUY • LIGHTING • ANTENNA • FEEDLINES • ANALYSIS • ERECT • DISMANTLE

CONTRACT

Subject to the terms and conditions contained herein.

CONTRACT NO: FH949983A

Date: August 19, 1994

KNES-FM

P.O. Box 347

Fairfield, TX 75840

This Agreement made between NATIONWIDE TOWER COMPANY, hereinafter called the "CONTRACTOR" and KNES-FM hereinafter called the "OWNER".

We propose to furnish all labor, materials as noted, equipment and insurance to complete the following work on (1) 500' tower located in Fairfield, TX.

Description of Work:

Remove (1) single bay antenna from (1) 500' tower.	\$700.00
Remove (1) run of 7/8" feed line from (1) 500' tower.	\$961.00
Mount (1) customer furnished 5 bay FM antenna at the 435' level.	\$2,700.00
Install (1) run of customer furnished 1-5/8" feed line for the 5 bay antenna.	\$1,287.00

NOTE. Installation of antenna includes tuning, unless the antenna is an ERI with internal slugs.

Materials to be furnished by CONTRACTOR: None

Materials to be furnished by OWNER: All

All of the above to be completed in a substantial and workmanlike manner for the sum of FIVE THOUSAND SIX HUNDRED FORTY EIGHT DOLLARS. (\$5,648.00)

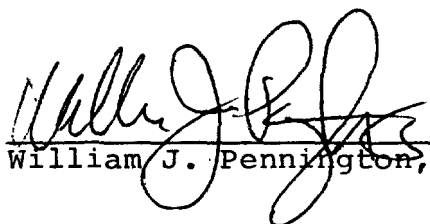
TERMS: 40% Upon Acceptance of Order (Material Deposit/Mobilization); 60% Upon Completion and Acceptance of Work.

This contract is valid for a period of (60) days.

CERTIFICATE OF SERVICE

I, William J. Pennington, III, do hereby certify that on this 30th day of August 1994, that I have caused a copy of the attached "JOINT COMMENTS OF FREESTONE BROADCASTING COMPANY, INC. & RUSSELL-FIELDS, INC." to be mailed first class U.S. mail, postage prepaid, to the offices of the following:

M. Scott Johnson, Esq.
Gardner, Carton & Douglas
1301 K Street, NW
Suite 900F
Washington, DC 20005
COUNSEL TO GLEISER COMMUNICATIONS, INC.



William J. Pennington, III